

JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

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DISTRICT OF NEBRASKA

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JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE NEW MOTOR VEHICLES CANADIAN EXPORT ANTITRUST LITIGATION

Paul Melangagio, et al. v. General Motors Corp., et al., D. Nebraska, C.A. No. 8:05-451

BEFORE WM. TERRELL HODGES, CHAIRMAN, JOHN F. KEENAN,* D. LOWELL JENSEN, J. FREDERICK MOTZ, ROBERT L. MILLER, JR., KATHRYN H. VRATIL AND DAVID R. HANSEN, JUDGES OF THE PANEL

TRANSFER ORDER

Before the Panel is a motion brought, pursuant to Rule 7.4, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001), by plaintiffs in this District of Nebraska action to vacate the Panel's order conditionally transferring their action to the District of Maine for inclusion in the coordinated or consolidated pretrial proceedings occurring there in this docket. Certain defendants in the action oppose the motion to vacate and urge inclusion of the action in the MDL-1532 proceedings.¹

On the basis of the papers filed and hearing session held, the Panel finds that this action involves common questions of fact with the actions in this litigation previously transferred to the District of Maine, and that transfer of this action to the District of Maine for inclusion in the coordinated or consolidated pretrial proceedings in that district will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. The Panel further finds that transfer of this action is appropriate for reasons expressed by the Panel in its original order directing centralization in this docket. In that order, the Panel held that the District of Maine was a proper Section 1407 forum for actions sharing factual questions arising out of an alleged unlawful conspiracy to prevent new motor vehicles sold in Canada from being imported into the United States. *See In re New Motor Vehicles Canadian Export Antitrust Litigation*, 269 F.Supp.2d 1372 (J.P.M.L. 2003). Plaintiffs' motion for reconsideration of the denial of remand, along with any other pretrial motions, can be presented to and decided by the transferee court. *See, e.g., In re Ivy*, 901 F.2d 7 (2nd Cir. 1990); *In re Prudential*

* Judge Keenan took no part in the decision of this matter.

¹ Responding defendants are Ford Motor Co. and Ford Motor Co. of Canada, Ltd.; DaimlerChrysler Corp., DaimlerChrysler Motor Co. and Mercedes-Benz USA, LLC; General Motors Corp. and General Motors of Canada, Ltd.; American Honda Motor Co., Inc.; Nissan North America, Inc.; and Toyota Motor Sales, USA, Inc.

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Insurance Company of America Sales Practices Litigation, 170 F.Supp.2d 1346, 1347-48 (J.P.M.L. - 2001).

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, this action is transferred to the District of Maine and, with the consent of that court, assigned to the Honorable D. Brock Hornby for inclusion in the coordinated or consolidated pretrial proceedings occurring there in this docket.

FOR THE PANEL:

A handwritten signature in black ink, appearing to read "Wm. Terrell Hodges", written over a horizontal line.

Wm. Terrell Hodges
Chairman